

Union Calendar No. 179

109TH CONGRESS
1ST SESSION

H. R. 3909

[Report No. 109–326]

To provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the Board of Governors of the Federal Reserve System, to guarantee checks cashed by insured depository institutions and insured credit unions for the benefit of noncustomers who are victims of certain 2005 hurricanes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2005

Ms. GINNY BROWN-WAITE of Florida (for herself, Ms. HOOLEY, Mr. BACHUS, and Mr. BAKER) introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 6, 2005

Additional sponsors: Mr. HINOJOSA, Mr. Al Green of Texas, Mr. FOLEY, AND
Ms. WASSERMAN SCHULTZ

DECEMBER 6, 2005

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on September 27, 2005]

A BILL

To provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the

Board of Governors of the Federal Reserve System, to guarantee checks cashed by insured depository institutions and insured credit unions for the benefit of noncustomers who are victims of certain 2005 hurricanes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, PURPOSE.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Hurricane Check Cashing Relief Act of 2005”.*

6 (b) *PURPOSE.*—*The purpose of this Act is to reduce*
 7 *the suffering and financial difficulties of victims of 2005*
 8 *hurricanes—*

9 (1) *whose home insured depository institutions*
 10 *and insured credit unions, or the insured depository*
 11 *institution or insured credit union on which any*
 12 *check or share draft payable to any such victim is*
 13 *drawn, are closed, or whose records are otherwise in-*
 14 *accessible, due to certain 2005 hurricanes;*

15 (2) *who lack access to operating automated teller*
 16 *machines for whatever reason as a result of any such*
 17 *hurricane, including inoperable payment networks;*

18 (3) *who lack some or all of the requisite forms*
 19 *of identification necessary to cash their own or a*
 20 *third-party check or share draft; or*

1 (4) *who are otherwise unable, by reason of any*
 2 *such hurricane, to access amounts on deposit at an*
 3 *insured depository institution or insured credit*
 4 *union.*

5 **SEC. 2. EMERGENCY AUTHORITY TO GUARANTEE CHECKS**

6 **CASHED FOR VICTIMS OF CERTAIN 2005 HUR-**
 7 **RICANES.**

8 (a) *FDIC.*—

9 (1) *IN GENERAL.*—*Subject to subsection (d), the*
 10 *Federal Deposit Insurance Corporation shall estab-*
 11 *lish, in accordance with emergency guidance issued*
 12 *by the Board of Governors of the Federal Reserve Sys-*
 13 *tem under subsection (d)(1), an emergency program*
 14 *under which an insured depository institution may*
 15 *obtain, subject to subsection (d)(2), a commitment*
 16 *from the Corporation to indemnify the insured depos-*
 17 *itory institution for any loss suffered by the institu-*
 18 *tion through cashing a check or share draft that—*

19 (A) *is presented for payment by any indi-*
 20 *vidual who, as of August 25, 2005, resided in the*
 21 *State of Florida, Alabama, Mississippi, Lou-*
 22 *isiana, or Texas in an area in which the Presi-*
 23 *dent, pursuant to section 401 of the Robert T.*
 24 *Stafford Disaster Relief and Emergency Assist-*

1 *ance Act, determined, on or after August 25,*
 2 *2005, that a major disaster exists; and*

3 *(B) is subsequently uncollectible,*
 4 *in an amount not to exceed \$2,000 for each such check*
 5 *or share draft.*

6 *(2) SOURCE OF FUNDS FOR PAYMENTS.—Any*
 7 *payments required to be made by the Corporation*
 8 *pursuant to a commitment under paragraph (1) to*
 9 *an insured depository institution shall be drawn from*
 10 *funds available for such purposes under subsection*
 11 *(c).*

12 *(b) NCUA.—*

13 *(1) IN GENERAL.—Subject to subsection (d), the*
 14 *National Credit Union Administration shall establish,*
 15 *in accordance with emergency guidance issued by the*
 16 *Board under subsection (d)(1), an emergency pro-*
 17 *gram under which an insured credit union may ob-*
 18 *tain, subject to subsection (d)(2), a commitment from*
 19 *the Administration to indemnify the insured credit*
 20 *union for any loss suffered by the credit union*
 21 *through cashing a share draft or check that—*

22 *(A) is presented for payment by any indi-*
 23 *vidual who, as of August 25, 2005, resided in the*
 24 *State of Florida, Alabama, Mississippi, Lou-*
 25 *isiana, or Texas in an area in which the Presi-*

1 *dent, pursuant to section 401 of the Robert T.*
 2 *Stafford Disaster Relief and Emergency Assist-*
 3 *ance Act, determined, on or after August 25,*
 4 *2005, that a major disaster exists; and*

5 *(B) is subsequently uncollectible,*
 6 *in an amount not to exceed \$2,000 for each such check*
 7 *or share draft*

8 (2) *SOURCE OF FUNDS FOR PAYMENTS.—Any*
 9 *payments required to be made by the National Credit*
 10 *Union Administration pursuant to a commitment*
 11 *under paragraph (1) to an insured credit union shall*
 12 *be drawn from funds available for such purposes*
 13 *under subsection (c).*

14 (3) *LIMITED EXTENSION OF CHECK CASHING*
 15 *SERVICES.—Notwithstanding any limitation in sec-*
 16 *tion 107(12) of the Federal Credit Union Act with re-*
 17 *gard to field of membership, an insured credit union*
 18 *may cash any check presented for payment by any*
 19 *individual described in paragraph (1)(A).*

20 (c) *REIMBURSEMENT FROM FEDERAL RESERVE SUR-*
 21 *PLUSES.—Section 7(b) of the Federal Reserve Act (12*
 22 *U.S.C. 289(b)) is amended by adding at the end the fol-*
 23 *lowing new paragraph:*

1 “(4) *ADDITIONAL TRANSFERS TO COVER CERTAIN*
2 *RELIEF EFFORTS RESULTING FROM HURRICANES OF*
3 *2005.*—

4 “(A) *IN GENERAL.*—Subject to subpara-
5 graph (C), from the surplus funds of the Federal
6 reserve banks maintained pursuant to subsection
7 (a)(2), the Federal reserve banks shall transfer to
8 the Board of Governors of the Federal Reserve
9 System for transfer to the Federal Deposit Insur-
10 ance Corporation and the National Credit Union
11 Administration, such sums as are necessary to
12 meet any payments required under subsection
13 (a)(1) or (b)(1) of section 2 of the Hurricane
14 Check Cashing Relief Act. In the event that the
15 total amount of requests for indemnification re-
16 ceived by the Federal Deposit Insurance Cor-
17 poration and the National Credit Union Admin-
18 istration exceed the maximum amount specified
19 under subparagraph (C), the sums transferred to
20 the Federal Deposit Insurance Corporation and
21 the National Credit Union Administration, re-
22 spectively, shall be in proportion to the amount
23 of payments required under subsection (a)(1)
24 and (b)(1) of section 2 of the Hurricane Check
25 Cashing Relief Act of 2005, respectively.

1 “(B) *ALLOCATION BY FEDERAL RESERVE*
2 *BOARD.—Of the total amount required to be paid*
3 *by the Federal reserve banks, the Board of Gov-*
4 *ernors of the Federal Reserve System shall deter-*
5 *mine the amount each such bank shall pay.*

6 “(C) *MAXIMUM AMOUNT.—The total amount*
7 *transferred under subparagraph (A) from all*
8 *Federal reserve banks shall not exceed*
9 *\$200,000,000.*

10 “(D) *REPLENISHMENT OF SURPLUS FUND*
11 *PROHIBITED.—No Federal reserve bank may re-*
12 *plenish such bank’s surplus fund by the amount*
13 *of any transfer by such bank under subpara-*
14 *graph (A).”.*

15 (d) *EMERGENCY GUIDANCE AND LIMITATIONS.—*

16 (1) *IN GENERAL.—The Board, after consulting*
17 *the Federal Deposit Insurance Corporation and the*
18 *National Credit Union Administration, shall, upon*
19 *the enactment of this Act, promptly issue appropriate*
20 *guidance—*

21 (A) *to carry out the purposes of this section*
22 *and administer the programs established in ac-*
23 *cordance with this section;*

1 (B) to reduce the incidence of fraud and
2 any other cause of loss to the greatest extent pos-
3 sible, consistent with the purpose of this Act;

4 (C) to require insured depository institu-
5 tions and insured credit unions to exercise due
6 diligence in determining the eligibility of any
7 check presented by any individual for indem-
8 nification under this section, including such
9 measures as verification of Social Security num-
10 bers and other identifying information as the
11 Board may determine to be practicable;

12 (D) to provide insured depository institu-
13 tions and insured credit unions with reasonable
14 guidance, in light of the emergency cir-
15 cumstances presented by certain 2005 hurri-
16 canes, so as to meet the requirements for indem-
17 nification under this section, including the shar-
18 ing of information on checks that have been pre-
19 sented for indemnification; and

20 (E) notwithstanding any Federal or State
21 law, to provide for the right of the Board of Gov-
22 ernors of the Federal Reserve System, on behalf
23 of the Federal reserve banks and through the
24 Federal Deposit Insurance Corporation and the
25 National Credit Union Administration, to re-

1 *cover from any insured depository institution or*
2 *insured credit union the amount of any indem-*
3 *nification paid to such depository institution or*
4 *credit union with respect to any check, to the ex-*
5 *tent of the amount so paid, if the insured deposi-*
6 *tory institution or insured credit union collects*
7 *on the check.*

8 (2) *COMPLIANCE WITH GUIDANCE CONDITION.—*

9 *The emergency guidance issued under paragraph (1)*
10 *shall require any insured depository institution or in-*
11 *insured credit union seeking a commitment under sub-*
12 *section (a)(1) or (b)(1) to demonstrate that the insti-*
13 *tution or credit union is in compliance with the guid-*
14 *ance in such manner as the Board determines to be*
15 *appropriate and practicable.*

16 (3) *PER INDIVIDUAL PER INSTITUTION LIMITA-*

17 *TION.—No specific insured depository institution or*
18 *insured credit union may be indemnified for losses in*
19 *excess of \$2,000 with respect to checks and share*
20 *drafts presented by any one individual.*

21 (e) *DEFINITIONS.—For purposes of this Act, the fol-*
22 *lowing definitions shall apply:*

23 (1) *BOARD.—The term “Board” means the*
24 *Board of Governors of the Federal Reserve System.*

1 (2) *INSURED CREDIT UNION.*—The term “insured
2 credit union” has the same meaning as in section 101
3 of the Federal Credit Union Act.

4 (3) *INSURED DEPOSITORY INSTITUTION.*—The
5 term “insured depository institution” has the same
6 meaning as in section 3 of the Federal Deposit Insur-
7 ance Act.

8 (f) *RULE OF CONSTRUCTION.*—No provision of this
9 section shall be construed as affecting any right or obliga-
10 tion of an insured depository institution or insured credit
11 union to take any action against any person in connection
12 with a fraudulent check, a fraudulent negotiation of a check,
13 or any other intentional act of a fraudulent or deceptive
14 nature.

15 (g) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—Subject to paragraph (2), the
17 provisions of this section shall apply to checks or
18 share drafts presented to an insured depository insti-
19 tution or an insured credit union during the period
20 beginning on August 25, 2005, and ending November
21 15, 2005.

22 (2) *LIMITED EXTENSION.*—The period described
23 in paragraph (2) may be extended once for an addi-
24 tional 60 days if—

1 (A) the Board, after consulting with the
2 Federal Deposit Insurance Corporation and the
3 National Credit Union Administration, deter-
4 mines that the continuing impact of the 2005
5 hurricane disasters on financial intermediation
6 between consumers and financial institutions, on
7 payment networks, and on other forms of com-
8 munication require an extension of the programs
9 established under this section in order to con-
10 tinue to meet the immediate needs of victims of
11 the disaster; and

12 (B) notice of such determination is pub-
13 lished in the Federal Register at least 5 days be-
14 fore the end of the period described in paragraph
15 (1).

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